IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 536 of 2002

Ramchandra Trimbak Joshi ... Appellant

V/s

1. Sau.Mangala Shashikant Joshi
2. Kumari Kishori Anant Joshi
3. Usha Trimbak Joshi .. Respondents

Shri P.S.Dani for Appellant

None present for the Respondents

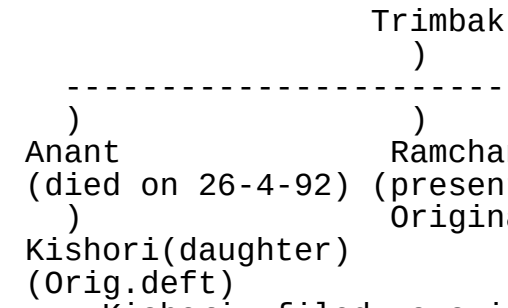
CORAM:S.R.SATHE,J.

DATED:20th June 2005

P.C.:-

1. The Appellant original plaintiff in Regular Civil Suit NO.26 of 1994 has preferred this appeal against the judgment and decree passed by the Additional District Judge,Niphad in Civil Appeal No.141 of 1999 whereby the order passed by the Civil Judge, S.D., Niphad dismissing the plaintiff’s suit for permanent injunction restraining defendants from obstructing plaintiff possession of the suit property was confirmed and first appeal was dismissed.

2. The genealogy showing relationship between the parties is as follows :-



. Kishori filed a suit for partition bearing Suit NO.310 of 1993. The said suit was opposed by the present Appellant. He in fact filed another suit bearing Regular Civil Suit No.26 of 1994 against Mangala Shashikant Joshi and Kishori Anant Joshi for permanent injunction. The said suit was dismissed by the trial Court holding that the plaintiff has failed to make out his exclusive possession of the suit property and that he is the sole owner of the same. The first Appellate Court also held that there was in fact no cause of action for the plaintiff to file a suit for injunction against Kishori. The first Appellate Court, therefore, confirmed the decree passed by the trial Court. Being aggrieved, original plaintiff filed the present Second Appeal.

. Admittedly, in a suit for partition filed by Kishori the present Appellant had taken out a stand that Trimbak has executed a Will in his favour and bequeathed the entire property to him. However,he failed to prove the alleged Will. Both the above mentioned suits were decided by the trial Court by common judgment and suit filed by Kishori was decreed

in her favour while the suit filed by the present Appellant was dismissed. Appellant has not challenged the decree for partition. The findings of facts recorded by both the Courts below with regard to possession and ownership are legal and correct and borne out from the evidence on record. There is no perversity in the same. No substantial question of law is involved in the present appeal. The appeal is dismissed in limine.

(S.R.SATHE,J.)